

STATE OF TENNESSEE

Office of the Attorney General



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FACSIMILE 615-741-2009

March 30, 2004

Chairman Pat Miller  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**IN RE: Docket #04-00034, PETITION OF CHATTANOOGA GAS COMPANY FOR  
APPROVAL OF ADJUSTMENT OF ITS RATES AND CHARGES AND REVISED TARIFF.**

Dear Chairman Miller:

Enclosed is an original and fourteen copies of the Affidavit of Dr. Stephen N. Brown on behalf of the Consumer Advocate of the Attorney General. We request that these documents be filed with the TRA in this docket. Please be advised that all parties of record have been served copies of these documents. If you have any questions, kindly contact me at (615) 741-7833. Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Vance L. Broemel".

VANCE L. BROEMEL

Assistant Attorney General

Enclosures

64421

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**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF CHATTANOGA GAS  
COMPANY FOR APPROVAL OF  
ADJUSTMENT OF ITS RATES AND  
CHARGES AND REVISED TARIFF**

**\*CONSIDER PETITION FOR RE-  
CONSIDERATION**

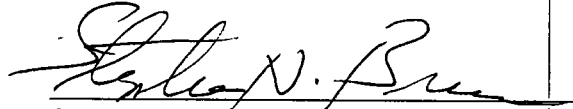
**DOCKET NO. 04-00034**

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**AFFIDAVIT**

---

I, Stephen N. Brown, for the Consumer Advocate and Protection Division of the Attorney General's Office, hereby certify that the attached Supplemental Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate and Protection Division.

  
STEPHEN N. BROWN  
Economist

Sworn to and subscribed before me  
this 29th day of March, 2005.

  
NOTARY PUBLIC

My commission expires: 7/21/2007

**I. Introduction**

**Q\_1. Please state your name.**

**A\_1. Steve Brown.**

**Q\_2. Where do you work and what is your job title?**

**A\_2. I am an Economist in the Consumer Advocate and Protection Division, Office of the Attorney General.**

**Q\_3. What are your responsibilities as an Economist?**

**A\_3. I review companies' petitions for rate changes and follow the economic conditions that affect the companies.**

**Q\_4. What experience do you have regarding utilities?**

**A\_4. In 1995 I began work as an economist in the Consumer Advocate and Protection Division (CAPD) of the Attorney General's Office. I have also appeared as a witness for CAPD in several cases before the Tennessee Regulatory Authority (TRA). From 1986 to 1995 I was employed by the Iowa Utilities Board as Chief of the Bureau of Energy Efficiency, Auditing and Research, and Utility Specialist and State Liaison Officer to the U.S. Nuclear Regulatory Commission. From 1984 to 1986 I worked for Houston Lighting & Power as Supervisor of Rate Design. From 1982**

1 to 1984 I worked for Arizona Electric Power  
2 Cooperative as a Rate Analyst. From 1979 to  
3 1982 I worked for Tri-State Generation and  
4 Transmission Association as Power Requirements  
5 Supervisor and Rate Specialist. Since 1979 my  
6 work spanned many issues including cost of  
7 service studies, rate design issues,  
8 telecommunications issues and matters related  
9 to the disposal of nuclear waste.

10  
11 **Q\_5. What is your educational background?**

12  
13 **A\_5.** I have an M.S. in Regulatory Economics from the  
14 University of Wyoming, an M.A. and Ph.D. in  
15 International Relations with a specialty in  
16 International Economics from the University of  
17 Denver, and a B.A. from Colorado State  
18 University.

19  
20 **Q\_6. Dr. Brown, have you authored any articles**  
21 **relating to your profession?**

22  
23 **A\_6.** Yes, my articles have appeared in Public  
24 Utilities Fortnightly.

25  
26 **Q\_7. Are you and have you been a member of any**  
27 **professional organizations, Dr. Brown?**

28  
29 **A\_7.** Yes, I am a past member of the NARUC Staff  
30 Committee on Management Analysis, a past  
31 trustee of and a member of the Board for the  
32 Automatic Meter Reading Association, and a  
33 current member of the National Association of  
34 Business Economists.

1  
2 **Q\_8. Have you studied mathematics and statistics as**  
3 **part of your education?**

4  
5 **A\_8. Yes.**

6  
7 **Q\_9. Dr. Brown, do you use mathematics and**  
8 **statistics in combination with economics as**  
9 **part of your profession?**

10  
11 **A\_9. Yes.**

12  
13 **Q\_10. What were you asked to do with respect to the**  
14 **reconsideration issue in this case?**

15  
16 **A\_10. I was asked to provide testimony in response to**  
17 **Mr. Michael Morley's affidavit of December 3,**  
18 **2004 and his testimony of March 14, 2005, and**  
19 **to form opinions on certain questions**  
20 **concerning "Exhibit No. Recon-2:"**

21  
22 1. Does the new capital structure in "Exhibit  
23 No. Recon-2" faithfully represent the capital  
24 structures which AGL Resource (AGLR) applies  
25 in-practice to its other wholly-owned utility  
26 subsidiaries?

27  
28  
29 2. Does the capital structure in "Exhibit No.  
30 Recon-2" represent reasonably anticipated  
31 changes in the capital structure of AGLR?  
32  
33

1 3. Is the capital structure in "Exhibit No.  
2 Recon-2" a just and reasonable basis to  
3 establish Chattanooga Gas Company's (CGC) rates  
4 and charges for its customers in Tennessee?

5  
6  
7 My answer to each question is "No." My opinion  
8 is that the Authority's capital structure set  
9 out in the Order of October 20, 2004 remains a  
10 reasonable basis to establish rates for CGC.  
11

**II. The Consolidated Capital Structure  
Is A Mix Of Utility And NonUtility  
Capital Structures**

If the Authority accepts AGLR's premise that the consolidated structure is the proper focus for capital structure, then the Authority needs to understand that the consolidated structure is the net result of AGLR's utility and nonutility capital structures. Mr. Morley's testimony of March 14, 2005, from pages 2 to 4, attests to the pervasive influence of AGLR's nonutility operations on the AGLR's consolidated capital structure:

**Q. Please describe the exhibits you are providing in support of Exhibit No. Recon-2.**

**A I am providing five exhibits in support of Exhibit No. Recon-2 as follows:**

o Schedule 4 - Georgia Natural Gas Company ("GNGC")  
Forecasted Income Statements for the quarters ended December  
31, 2004, March 31, 2005 and June 30, 2005. A separate  
forecasted income statement for GNGC is required to appropriately  
include GNGC's earnings before interest, income taxes and  
depreciation and amortization as a non-cash item. Cash received

from GNGC is based on annual dividends, which have been  
included in the forecast

Mr. Morley's testimony amply demonstrates that "Exhibit No. Recon-2" includes the heretofore hidden and unacknowledged affect of AGLR's nonutility operations on the capital structure that would be the basis of CGC's rates to businesses and other consumers in Chattanooga. A list of AGLR's subsidiaries, including Georgia Natural Gas appears below:

Subsidiaries of AGL Resources Inc. - Microsoft Internet Explorer

Address: http://www.sec.gov/Archives/edgar/data/1004155/000100415505000018/exhibit21.htm

EX-21 10 exhibit21.htm SUBSIDIARIES OF AGL RESOURCES INC

Exhibit 21

Subsidiaries of AGL Resources Inc \*

Following is a listing of the significant subsidiaries as of December 31, 2004

Name of Subsidiary	Jurisdiction
AGL Capital Corporation	Nevada
AGL Networks, LLC	Georgia
AGL Services Company	Georgia
Atlanta Gas Light Company	Georgia
Chattanooga Gas Company	Tennessee
Georgia Natural Gas Company	Georgia
SouthStar Energy Services LLC**	Delaware
NUI Utilities, Inc ***	New Jersey
NUI Saltville Storage, Inc	Delaware
Pivotal Jefferson Island Storage & Hub, LLC	Delaware
Jefferson Island Storage & Hub, LLC****	Delaware
Sequent Energy Management, LP	Georgia
Virginia Gas Company	Delaware
Virginia Natural Gas Inc	Virginia

Unregulated NonUtility Subsidiaries

\* The names of certain subsidiaries have not been included because, considered in the aggregate as a single subsidiary, they would not constitute a significant subsidiary

\*\* 70% owned by Georgia Natural Gas Company

\*\*\* Includes operations of three natural gas utilities, Elizabethtown Gas Company (New Jersey), Florida City Gas Company (Florida) and Elkton Gas Company (Maryland)

In my opinion, just and reasonable rates for consumers cannot be accurately established as long as utility and nonutility capital structures are intermingled. For the sake of accuracy and fairness to CGC's ratepayers, the



1 utility capital structures should be separated  
2 from the nonutility capital structures.  
3  
4

5 **III. The Authority's Reconsideration**  
6 **Should Take Into Account AGLR's**  
7 **Continuing Arbitrary Practice Of**  
8 **Applying Different Capital**  
9 **Structures To Different Utility**  
10 **Subsidiaries**

11  
12  
13 On November 15, 2004 AGLR's utility subsidiary  
14 Virginia Natural Gas (VNG) filed a financing case  
15 with the Virginia State Corporation Commission  
16 (VSCC). The cover letter from the filing and the  
17 "in-practice" capital structure are shown on the  
18 following page:

McGuireWoods LLP  
One James Center  
901 East Cary Street  
Richmond, VA 23219-4030  
Phone: 804 775 1000  
Fax: 804 775 1061  
www.mcguirewoods.com

Anne K. Dailey  
Direct 804 775 1384

McGUIREWOODS

adailey@mcguirewoods.com  
Direct Fax 804 698 2157

RECEIVED  
November 15, 2004

**BY HAND**

Joel H. Peck, Clerk  
State Corporation Commission  
c/o Document Control Center  
1300 East Main Street, 1st Floor  
Richmond, VA 23219

Application of Virginia Natural Gas, Inc., AGL Resources Inc.,  
and AGL Services Company for Authority to Issue Short-Term Debt,  
Long-Term Debt and Common Stock to an Affiliate Under  
Chapters 3 and 4, Title 56 of the Code of Virginia  
PUE-2004-00132

Dear Mr. Peck:

Exhibit D - Case No. PUE2004-  
Pro Forma Change in Capital Structure  
Virginia Natural Gas, Inc., et al  
Page 1 of 2

Capital Structure Table  
As of June 30, 2004  
(Dollars in Millions)

	Consolidated AGL Resources Inc.		VNG		Pro-forma VNG*	
	Amount	Percent to Total	Amount	Percent to Total	Amount	Percent to Total
Short-Term Debt	\$ 161.0	7.3%	\$ (72.1)	-14.5%	\$ 100.0	18.4%
Current portion of LT Debt	33.5	1.5%	-	0.0%	-	0.0%
Long-Term Debt	728.5	33.2%	180.3	36.3%	250.0	45.9%
Notes Payable to Trusts	234.2	10.7%	-	0.0%	-	0.0%
Total Debt	1,157.2	52.7%	108.2	21.8%	350.0	64.3%
Minority interest	29.3	1.3%	-	0.0%	-	0.0%
Common Stockholders' Equity	1,009.5	46.0%	389.1	78.1%	194.5	35.7%
Total Capitalization	\$ 2,186.0	100.0%	\$ 497.3	100.0%	\$ 544.5	100.0%

\*Reflects net increase in interest expense due to change in money pool payable to \$100.0 million at 1.5% interest, reduction of money pool receivable, increase in long-term debt of \$89.7 million at 4.45% interest, removal of interest income of \$1.0 million, tax effect of 38.0%

The information shows AGLR's Virginia-based subsidiary operating with a capital structure of slightly more than 35 percent equity and

1           slightly more than 18 percent short-term debt.

2  
3           As I have already sworn to in my direct  
4           testimony, AGLR applied nearly the same capital  
5           structures to VNG in 2002 and 2003. In my  
6           direct testimony I pointed to AGLR's treatment  
7           of VNG as evidence confirming AGLR's arbitrary  
8           assignment of capital structures to its utility  
9           subsidiaries. Mr. Morley responded to my  
10          assessment and attempted to justify AGLR's  
11          practice by saying the capital structure was  
12          inherited, as if AGLR's hands were tied:

13  
14                   *"Virginia Natural Gas is -- has a hypothetical capital structure*  
15                   *that's based on their previous owner. We continue to use that*  
16                   *capital structure." [Transcript 040824, Vol 3, page 27 line 23 to*  
17                   *page 28 lines 3]*

18  
19          AGLR purchased VNG in October 2000 and has yet  
20          to have a rate case. To the extent that AGLR is  
21          holding its rates steady for this subsidiary  
22          and not building up equity contributions from  
23          VNG, there is no good reason to expect CGC's  
24          customers to make up the difference.

25  
26          AGLR's most recent acquisition, NUI, again  
27          confirms AGLR's practice of applying different  
28          capital structures to different utility  
29          subsidiaries. Shown below are certain portions  
30          of the SEC's Release No. 35-27917; 70-10243,  
31          authorizing AGLR to acquire NUI. The order  
32          shows that AGLR has committed NUI's utility  
33          subsidiary to a capital structure where the  
34          equity ratio will be no less than 30 percent.

1

## **SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 35-27917; 70-10243)**

**AGL Resources, Inc. et al**

**Order Authorizing Acquisition of NUI  
Corporation and its Subsidiaries,  
Various Financing Transactions;  
Reservation of Jurisdiction**

**November 24, 2004**

2

### **3. NUI and NUI Utilities' Capital Structure**

The capital structures of NUI, VGDC and NUI Utilities as of June 30, 2004 are shown in the tables below

	NUI		NUI Utilities	
	(\$MM)	% of total cap	(\$MM)	% of total cap
Long-term debt	199	28.4%	199	39.1 %
Short-term debt	294 <sup>2</sup>	42.0%	86 <sup>3</sup>	16.9 %
Common stock	207	29.6%	224	44.0%
Total capitalization	\$70	100.0%	\$501	100.0%
	VGDC			
			(\$MM)	% of total cap
Long-term debt			0	0
Short-term debt			(1) <sup>4</sup>	50%
Common stock equity			(1)	50%
Total capitalization			(1)	100.0%

3

## **VII. Financing Authority**

Applicants request authority for NUI and the NUI Subsidiaries, after the consummation of the Merger, to engage in the various financing transactions described below through March 31, 2007 ("Authorization Period"). Applicants state that financings by NUI and the NUI Subsidiaries will be subject to the following limitations ("Financing Limitations")

### **A. Financing Limitations**

#### **1. Use of Proceeds**

Applicants state that the proceeds from the sale of securities in these financing transactions will be used for general corporate purposes, including the financing, in part, of the capital expenditures and working capital requirements of NUI and its subsidiaries, for the acquisition, retirement or redemption of securities previously issued by NUI or the NUI Subsidiaries, and for authorized investments in companies organized in accordance with rule 58 under the Act, and for other lawful purposes

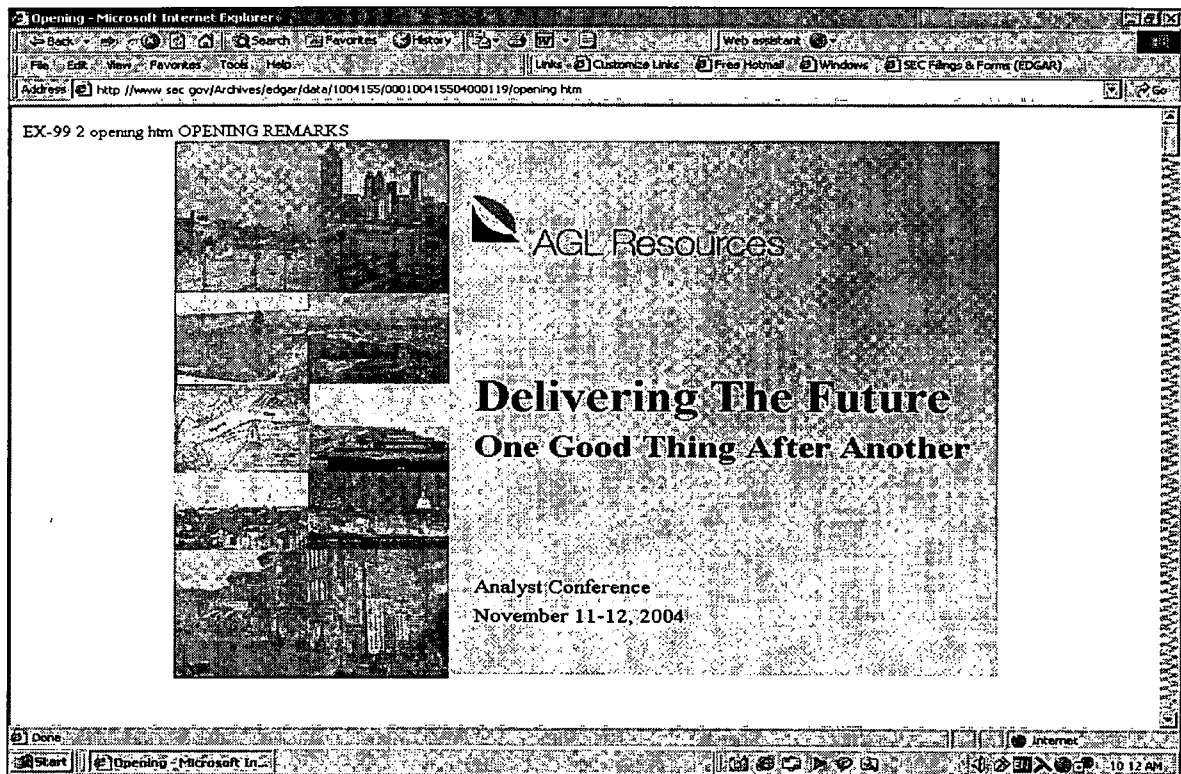
#### **2. Maturity**

The maturity of long-term debt will be between one and 50 years. Short-term debt will mature within one year.

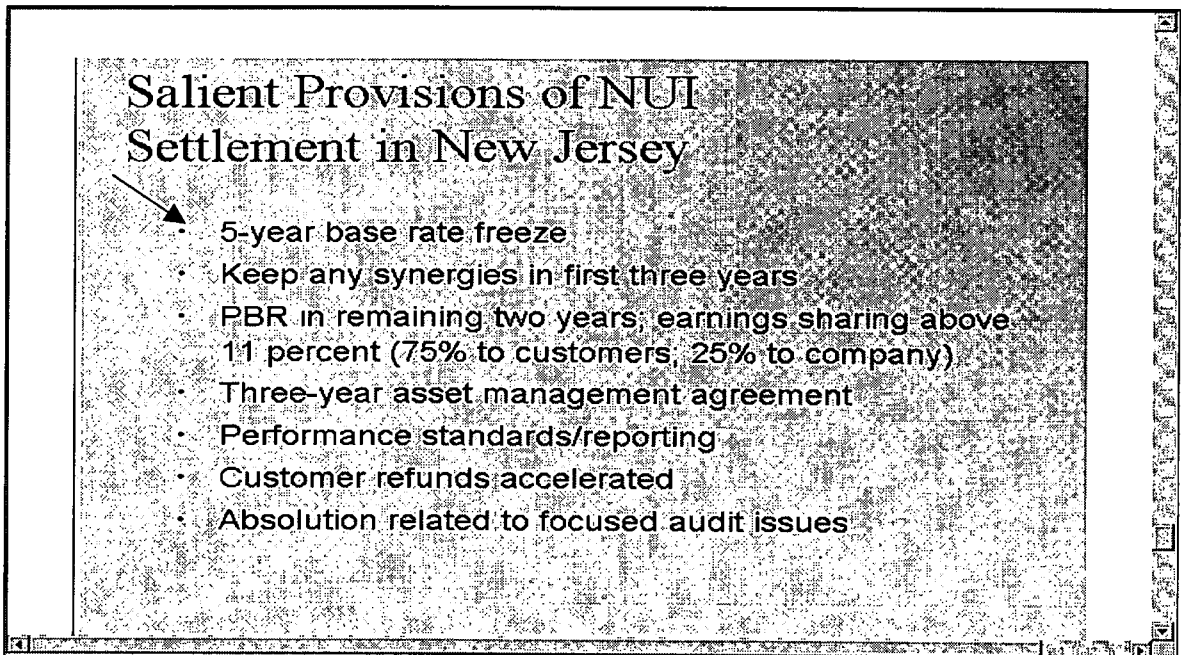
#### **3. Common Equity Ratio**

→ NUI Utilities and VGDC, on an individual basis, will maintain common stock equity of at least 30% of total capitalization as shown in its most recent quarterly balance sheet

1  
2  
3 In addition, AGLR revealed in its SEC 8-K  
4 filing of November 12, 2004 that AGLR has  
5 agreed to freeze NUI's utility rates until at  
6 least 2010. Selected portions of that filing,  
7 which were first shown at AGLR's annual  
8 investor conference in November 12, 2004, are  
9 shown below.



1

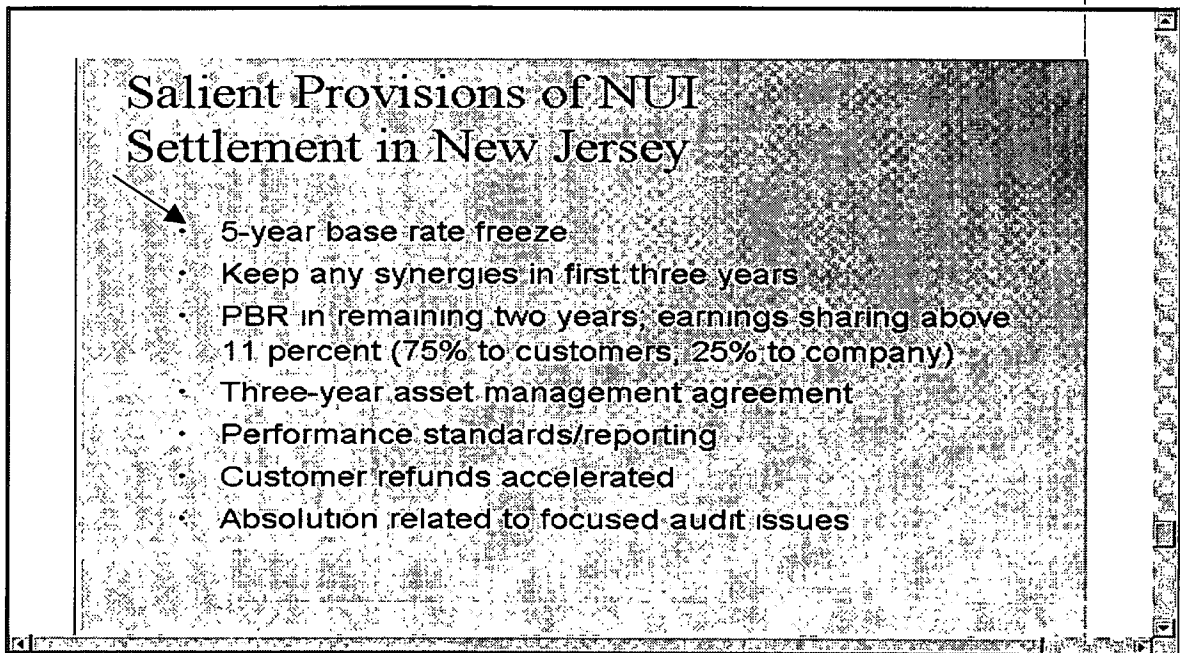


2

3



1



2

3

**IV. AGLR Is Ignoring Ordering Clause 18  
Of The Authority's Order of October  
20, 2004**

Ordering clause 18 directs AGLR to "inform the Authority within two (2) weeks of its becoming aware of any future actions of the Securities and Exchange Commission that involve the financial statements of Chattanooga Gas Company, AGL Resources or its affiliates."

The SEC's order allowing AGLR to purchase NUI is dated November 24, 2004. AGLR's SEC Form 8-K of November 12, 2004 informs investors of the five-year rate freeze for NUI. Mr. Morley's affidavit is dated December 3, 2004 and his recent testimony is dated March 14, 2005. On August 24, 2004, Mr. Morley was questioned extensively about the impact of the NUI acquisition on the CGC's rate case:

*"Q [MR ADAMS] I believe you say on page 29 of your rebuttal testimony that the acquisition of NUI would not have any impact on this rate case*

*A [MR MORLEY] I'm sorry Where is that on page 29?*

*Q [MR ADAMS] Page 29 on line 21 "There will be no impact until and unless the acquisition is completed"*

*A [MR MORLEY] That is correct*

*Q [MR ADAMS] If there would be any impact after the*



1                   *acquisition is completed and we are looking at your future return*  
2                   *on equity and your future cost of capital, do you think it's fair for*  
3                   *the ratepayers not to have the impact of NUI included in this rate*  
4                   *case if there is a way to estimate the impact?*

5  
6                   *A [MR MORLEY] I don't know that -- I can't personally estimate*  
7                   *the impact Again, the purchase is still pending It has not been*  
8                   *finalized I'm not sure of the financing structure, if it will be debt*  
9                   *or -- if it will be all debt or a combination of debt and equity, and I*  
10                  *don't know if we as a company have actually finalized that yet as*  
11                  *well*

12  
13                  *Q [MR ADAMS ] On page 18 of your --*  
14

15                  *DIRECTOR TATE Before you leave that, could I just follow up*  
16                  *on that question? So would you have any problem with coming*  
17                  *back and if indeed the sale goes through, then notifying the TRA*  
18                  *about what the cost associated with the transaction was and how*  
19                  *that affected both Chattanooga Gas and the ratepayers?*

20  
21                  *THE WITNESS [MR MORLEY] I couldn't make the -- I mean, I*  
22                  *couldn't say yes on that*

23  
24                  *DIRECTOR TATE Okay Who could?*  
25

26                  *THE WITNESS [MR MORLEY] I'm not sure*  
27

28                  *DIRECTOR TATE Okay Thank you " [Transcript 040824, Vol 3,*  
29                  *page 29 line 22 to page 31 line 5]*  
30

31                  Despite the Authority's clear interest in the  
32                  NUI acquisition as it affects CGC's rates, and  
33                  despite pertinent information regarding AGLR's  
34                  acquisition of NUI being available at the time

1 of his affidavit and testimony, Mr. Morley is  
2 silent about the terms of the NUI acquisition  
3 and NUI's prospective capital structure which  
4 AGLR will apply to its newly acquired  
5 subsidiary. Furthermore, although CGC is asking  
6 for reconsideration regarding the Authority's  
7 decision on capital structure, which will have  
8 an effect on the revenue increase ultimately  
9 allowed for CGC, Mr. Morley and CGC have  
10 ignored ordering clause 18 of Authority's Order  
11 of October 20, 2004, a clause which CGC is not  
12 disputing.

13  
14 **V. CAPD's Alternative Opinion On The**  
15 **Appropriate Capital Structure**

16  
17 If the central idea in this Reconsideration is  
18 to look on AGLR' consolidated capital structure  
19 as the sole reference point, then the  
20 Reconsideration should be based on an AGLR  
21 utility subsidiary whose capital structure has  
22 already been verified.

23  
24 Based on the new evidence of AGLR's continuing  
25 arbitrary practice of applying different  
26 capital structures to different utility  
27 subsidiaries, I have an alternative opinion on  
28 the appropriate capital structure to set a  
29 revenue increase for CGC.

30  
31 My alternative opinion is that CGC's rates to  
32 consumers should be based on VNG's capital  
33 structure of 35.5 percent equity, 18.4 percent

1 short-term debt and 46.1 percent long-term  
2 debt, with no provision for preferred stock.  
3 Those numbers are averages of VNG's capital  
4 structures filed with the VSCC.  
5

AGLR's Capital Structure In VNG				
Ratios (%)	2004	2003	2002	Three-Year Average
Short-Term Debt	18.4	18.3	18.6	18.4
Long Term Debt	45.9	45.7	46.7	46.1
Equity	35.7	36	34.7	35.5
Total	100	100	100	100

6  
7 VNG's current and past capital structures,  
8 which AGLR has been applying to VNG for five  
9 years, have been regularly reviewed and  
10 accepted by the Virginia State Corporation  
11 Commission (VSCC). Applying this capital  
12 structure to CGC creates a revenue increase of  
13 \$392,000 instead of the revenue increase of  
14 \$642,777, which is in the Authority's Order of  
15 October 20, 2004.  
16

17 The TRA's decision to apply a 35% equity ratio  
18 as a basis for CGC's rates to consumers is  
19 perfectly reasonable and consistent with AGLR's  
20 treatment of VNG and AGLR's prospective  
21 treatment of its most recent acquisition, the  
22 NUI utility subsidiary. AGLR has pledged to  
23 operate NUI at an equity ratio no lower than  
24 30%, thus allowing AGLR to operate NUI at an  
25 equity ratio even lower than VNG's. AGLR is

1 also applying a 16.9% short-term debt ratio to  
2 NUI.

3  
4 Because CGC is part of a larger family of  
5 companies in AGLR, my opinion is that the  
6 businesses and other consumers of natural gas  
7 in Chattanooga should be treated as well as the  
8 best treatment that AGLR gives to consumers who  
9 are served by other AGLR utility subsidiaries.  
10 In his affidavit and testimony, Mr. Morley  
11 offers no reason why consumers of CGC's product  
12 should carry a burden heavier than what is  
13 borne by AGLR's two larger utility  
14 subsidiaries, VNG and NUI.

15  
16 **VI. The Capital Structure In "Exhibit**  
17 **No. Recon-2", Does Not Account For**  
18 **Known And "Reasonably Anticipated"**  
19 **Changes In AGLR's Capital Structure**

20  
21 CGC's request for reconsideration asks the  
22 Authority to rely on "Exhibit No. Recon-2" as  
23 the basis for CGC's rates to consumers. The  
24 exhibit is shown below  
25

Chattanooga Gas Company TRA Docket 04-00034						Exhibit No. Recon-2
AGL Resources Average Capital Structure Twelve Months Ended June 30, 2005 Percent of Total						
Class of Capital	6/30/2004	9/30/2004	12/31/2004	3/31/2005	6/30/2005	Twelve Months Ended June 30, 2005 Average
Short Term Debt	7.31%	2.17%	5.95%	1.21%	3.72%	4.07%
Total Long Term Debt	34.85%	43.26%	40.43%	41.91%	40.78%	40.24%
Preferred Stock	10.09%	9.44%	9.13%	9.48%	9.21%	9.47%
Common Equity	47.75%	45.13%	44.49%	47.42%	46.29%	46.22%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

	Qtr Ended 6/30/2004	Qtr Ended 9/30/2004	Qtr Ended 12/31/2004	Qtr Ended 3/30/2005	Qtr Ended 6/30/2005
Short Term Debt	\$ 161.0	\$ 51.0	\$ 144.7	\$ 28.3	\$ 89.6
Total Long Term Debt	767	1,017	983	983	983
Preferred Stock	222	222	222	222	222
Common Equity a/	1,051	1,081	1,082	1,112	1,116
Total	\$ 2,201.0	\$ 2,109.0	\$ 2,323.5	\$ 2,137.5	\$ 2,202.3

a/ Amounts have been adjusted to exclude "other comprehensive income" related to AGLR's consolidated accrued pension liability and other items not yet recognized as expense

"Exhibit No. Recon-2" displays five capital structures dated from June 30, 2004 to June 30, 2005. According to Mr. Morley's affidavit of December 3, 2004, paragraph 7, the data for the quarters "6/30/2004" and "9/30/2004" are "actual capital" structures while the ones dated "12/31/2004", "3/31/2005," and "6/30/2005" are Mr. Morley's expected capital structures. Each capital structure has very low short term debt ratios and high equity ratios, in comparison to the capital structures for VNG and NUI. The sources of Mr. Morley's "actual capital" structures are SEC Forms 10-Q filed by AGLR with the SEC.

"Exhibit No. Recon-2" is a genuinely misleading and inaccurate document for setting CGC's rates in two ways:

The exhibit in no way acknowledges or accounts for AGLR's financing of its NUI purchase.

Unlike the SEC Form 10-K which includes an independent auditor's statement verifying the data, the 10-Q forms are not audited and do not include an independent auditor's statements verifying the data.

Compare "Exhibit No. Recon-2" to my direct testimony, Schedule 6, which displays statements from independent auditors. The difference between an audited capital structure and one that is not audited is vividly shown by the substantial differences between Mr. Morley's capital structure of "12/31/2004" and AGLR's verified capital structure in its SEC form 10-K for December 31, 2004, page 46, which is shown below.

Dollars in millions	Dec. 31, 2004		Dec 31, 2003	
Short-term debt	\$ 334	10%	\$ 383	16%
Long-term debt (1)	1,623	48	956	42
Total debt	1,957	58	1,339	58
Minority interest	36	1	-	-
Common shareholders' equity	1,385	41	945	42
Total capitalization	\$ 3,378	100%	\$ 2,285	100%
(1) Net of interest rate swaps				

In "Exhibit No. Recon-2" Mr. Morley projects a short-term debt ratio of 5.95%, but the audited

data shows a short-term ratio of 10%. Mr. Morley projects an equity ratio of 44.49%, but the audited data shows an equity ratio of 41%.

Mr. Morley's testimony of March 14, 2005 gave him an opportunity to mask the obvious failure in his projections. On March 14 he offered an exhibit he names "MJM Support - 4" which is shown below.

<p align="center"><b>Chattanooga Gas Company</b>  <b>Docket No. 04-00034</b>  <b>AGL Resources Inc. Forecasted Capital Structure - Updated for December 2004 Actuals</b>  <b>June 30, 2005</b>  <b>MJM Support - 4</b></p>						
Class of Capital	6/30/2004	9/30/2004	12/31/2004 *	3/31/2005	6/30/2005	<p align="center">Twelve Months Ended June 30, 2005</p> <p align="center">Average</p>
Short Term Debt	7.31%	2.17%	9.89%	1.21%	3.72%	4.86%
Total Long Term Debt	34.85%	43.26%	41.16%	41.91%	40.78%	40.24%
Preferred Stock	10.09%	9.44%	6.57%	9.48%	9.21%	8.96%
Common Equity	47.75%	45.13%	42.37%	47.42%	46.29%	45.79%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

	Qtr Ended 6/30/2004	Qtr Ended 9/30/2004	Qtr Ended 12/31/2004	Qtr Ended 3/30/2005	Qtr Ended 6/30/2005
Short Term Debt	\$ 161.0	\$ 51.0	\$ 334	\$ 28.3	\$ 89.6
Total Long Term Debt	767	1,017	1,390	983	983
Preferred Stock	222 (B)	222 (B)	222	222	222
Common Equity - (A)	1,051	1,081	1,431	1,112	1,116
Total	\$ 2,201.0	\$ 2,351.0	\$ 3,377.0	\$ 2,345.5	\$ 2,410.3

\* - Updated to reflect actual results

(A) - Amounts have been adjusted to exclude "other comprehensive income" related to AGLR's consolidated accrued pension liability and other items not yet recognized as expense

(B) - In the first quarter 2004 AGLR adopted FIN 48R (See Note 2 to the 10Q)

The only real difference between "Exhibit No. Recon-2" and "MJM Support - 4" lies in the center column - the one dated "12/31/2004" -

1 which Mr. Morley claims to have "updated to  
2 reflect actual results" by reaching to data  
3 made public only on February 15, 2005. Thus the  
4 remarkable aspect of "Exhibit No. Recon-2" is  
5 that Mr. Morley, who should be well-versed in  
6 his company's finances and its trends,  
7 projected a "12/31/2004" capital-structure that  
8 missed the mark by a country-mile, even though  
9 there were less than 30 days left in the year  
10 when he supplied his affidavit explaining  
11 "Exhibit No. Recon-2." It is not prudent to  
12 accept a forecast from a witness who is not  
13 capable of making an accurate forecast of his  
14 own company's capital structure just 30 days  
15 into the future.

16  
17 By February 15, 2005 everyone who cared to  
18 know, knew what the data was for December 31,  
19 2004. His phrasing that he "updated to reflect  
20 actual results" is misleading with regard to  
21 the true meaning of the data: It is credible  
22 data because it is data verified by an  
23 independent third party - an auditor, as show  
24 below:  
25

We have completed an integrated audit of AGL Resources Inc.'s 2004 consolidated financial statements and of its internal control over financial reporting as of December 31, 2004 and an audit of its 2003 consolidated financial statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Our opinions, based on our audits and the reports of other auditors, are presented below.

Consolidated financial statements and financial statement schedule

In our opinion, based on our audits and the report of other auditors, the consolidated financial statements listed in the index appearing under Item 15(a)(1) present fairly, in all material respects, the financial position of AGL Resources Inc. and its subsidiaries at December 31, 2004 and 2003, and the results of their operations and their cash flows for each of the two years in the period ended December 31, 2004 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, based on our audits and the report of other auditors, the 2004 and 2003 financial statement

26  
27  
28 The capital structures shown on the far-right  
29 side of "Exhibit No. Recon-2" and "MJM Support



1       - 4" are not a sound basis for setting CGC's  
2       rates because they do not rely on verified  
3       data. The structures suggest little reliance  
4       on short-term debt, a major contrast with the  
5       short-term debt ratios AGLR assigns to VNG and  
6       NUI.

7  
8       Also, the factors that compose a capital  
9       structure -- short-term debt, equity, long-  
10      term debt, and so forth - are balance sheet  
11      items always qualified with the phrase "as of"  
12      a certain date.

13  
14      For example, AGLR's 10-Qs are data "as of"  
15      March 31, June 30, and September 30 in a given  
16      year. AGLR's 10-K reflects data "as of"  
17      December 31. Each report is a "snapshot" for  
18      just one day, and there are only 4 such points  
19      or days in a year, which leaves another 361  
20      days unaccounted for. The vital difference  
21      between these four "as of" dates is that the  
22      data "as of December 31" is verified but the  
23      other data is not.

24  
25      CGC's counsel, Mr. Dowdy, opined to the TRA  
26      that the 10Q's unaudited data should be relied  
27      on as a source for capital structure: "these  
28      are not facts that can be highly controversial.  
29      I mean, a 10-Q at the SEC is the 10-Q."  
30      [Authority Conference, Dec, 13, 2004, page 102,  
31      lines 8-10]

32  
33      Contrary to Mr. Dowdy's opinion, the 10-Q data  
34      is controversial with regard to ratemaking

1 because the 10-Q data is not verified by an  
2 independent auditor. The 10-Q is not an  
3 appropriate source for capital structure. I did  
4 not use the 10-Q to establish capital  
5 structure. I used the 10-K form because the  
6 data is verified by an independent auditor.

7  
8 Therefore, CGC is plainly wrong in its opinion  
9 that "utilization of a single point of  
10 December 31 of any year gives an inaccurate  
11 view of the capital structure of a gas  
12 utility." [Petition for Reconsideration,  
13 November 4, 2004, page 12.] The best view is  
14 provided by audited data, and the proof is in  
15 Mr. Morley's handling of short-term debt.

16  
17 Going from left to right in "Exhibit No.  
18 Recon-2", the row labeled "Short Term Debt"  
19 shows dollar values:

20  
21 \$161 million as of 6/30/2004;  
22 \$51 million as of 9/30/2004;  
23 \$144.7 million as of 12/31/2004;  
24 \$28.3 million as of 3/31/2005;  
25 \$89.6 million as of 6/30/2005.

26  
27 There are several inconsistencies which Mr.  
28 Morley does not reckon with.

29  
30 Short-term debt is at its highest level, \$161  
31 million, on June 30, 2004. This contradicts  
32 Mr. Morley's statement in his testimony of  
33 March 14, 2004, at page 11, lines 19-21 that:  
34 "December is historically AGLR's peak short-

1 term debt month. This is the result of the  
2 seasonality of AGLR's business."

3  
4 Short-term debt as of December 31, 2004,  
5 \$144.7 million, is less than half of \$334  
6 million, which is the amount verified by the  
7 independent auditors;

8  
9 Even though "Exhibit No. Recon-2" shows AGLR's  
10 short-term debt trending downward, AGLR's 10-K  
11 of February 15, 2005 gave special recognition  
12 that the company had increased its capacity to  
13 borrow short-term debt:

14  
15  
16  
17 Our commercial paper program is supported by our Credit Facility, which  
18 was amended on September 30, 2004. Under the terms of the  
19 amendment, the term of the Credit Facility was extended from May 26,  
20 2007 to September 30, 2009. The aggregate principal amount available  
21 under the amended Credit Facility was increased from \$500 million to  
22 \$750 million, and our option to increase the aggregate cumulative  
23 principal amount available for borrowing on not more than one occasion  
24 during each calendar year was increased from \$200 million to \$250  
25 million. As of December 31, 2004 and 2003, we had no outstanding  
26 borrowings under the Credit Facility. However, the availability of  
27 borrowings and unused availability under our Credit Facility is limited and  
28 subject to conditions specified within the Credit Facility, which we  
29 currently meet.

30  
31 In its 10-Q for the period ending September  
32 30, 2004 AGLR said,

33 *"On October 22, 2004 we signed a \$700 million bridge credit agreement*  
34 *The bridge facility is intended only to provide us with short-term financing*  
*for our purchase of NUI. Any amount borrowed under the facility must be*  
*repaid prior to its September 30, 2005 expiration date."*

1 In light of AGL's huge potential to borrow  
2 short-term, \$750 million through its  
3 commercial paper program, and \$700 million  
4 through the bridge loan, the only credible  
5 short-term debt number in either "Exhibit No.  
6 Recon-2" and "MJM Support - 4" is the verified  
7 number, \$334 million as of December 31, 2004.  
8

9 AGLR relied heavily on short-term debt when it  
10 purchased VNG. Consider this information from  
11 AGLR's 10-Q, for the period ending March 31,  
12 2001, page 13:  
13

14 *" In connection with the acquisition of VNG, AGL Resources*  
15 *established a \$900 million commercial paper program through*  
16 *AGL Capital Corporation. AGL Resources' commercial paper*  
17 *consists of short-term unsecured promissory notes with maturities*  
18 *ranging from overnight to 270 days. AGL Resources' commercial*  
19 *paper program is fully supported by bank back-up credit lines. On*  
20 *October 6, 2000, AGL Resources issued \$660 million in*  
21 *commercial paper, the proceeds of which were used to finance the*  
22 *VNG acquisition and to refinance existing short-term debt "*  
23

24 After its purchase of VNG, AGLR had  
25 substantial amounts of short-term debt on its  
26 books, as verified by independent auditors. It  
27 would not be surprising if the same pattern  
28 were repeated subsequent to the acquisition of  
29 NUI. To the extent that AGLR is holding its  
30 rates steady for other subsidiaries and not  
31 building up equity from them, there is good  
32 reason to expect AGLR to continue its reliance  
33 on short-term debt.  
34

**VII. Mr. Morley Was Not CGC's Or AGLR's  
Capital Structure Witness, Dr. Roger  
Morin Was The Capital Structure  
Witness**

It is not surprising that Mr. Morley's capital structures are not credible because he is not qualified to testify about capital structure. He is on-record as disavowing any expertise in capital structure, and he did not testify about capital structure, contrary to his affidavit of December 3, 2004, paragraph 4, where he asserts, "I previously.... testified at the hearing on this matter." Mr. Morley disavowed having expertise in capital-structure.

In cross-examination Mr. Morley declined three times to accept responsibility for the capital structure CGC filed in its case, and clearly said the capital structure was Dr. Morin's responsibility:

*"Q [MR. ADAMS ] Could you explain to me a little more why you chose to use the 4. -- how you calculated the short-term capital 4.3 percent and the ratio as opposed to using the comparable company's short-term ratio or even AGA's short-term ratio?"*

*A.[MR. MORLEY] Sure. We -- first of all, we calculated the short-term debt ratio on Chattanooga Gas Company on a stand-alone basis to be consistent with Dr Roger Morin's capital structure... [Transcript 040824, Vol 3, page 28, lines 16-25.]*

*....*

1                   *"Q. [MR ADAMS ] My last question is the hypothetical costs of a*  
2                   *natural gas company, the capital structure that's used in your*  
3                   *schedules. Can you explain a little more in detail how you got to*  
4                   *that hypothetical capital structure?*

5  
6                   *A.     [MR. MORLEY] Probably the person better to explain that*  
7                   *would be Dr. Roger Morin " [Transcript 040824, Vol 3, page 33,*  
8                   *lines 14-20 ]*

9                   *. . . . .*  
10                  *"Q. [MR ADAMS ] My question is on what is the basis for making*  
11                  *the hypothesis that you are going to use this hypothetical capital*  
12                  *structure?*

13  
14                  *A.     [MR. MORLEY] I think that would be a question for Dr.*  
15                  *Morin to answer " [Transcript 040824, Vol 3, page 34, lines 7-*  
16                  *11 ]*

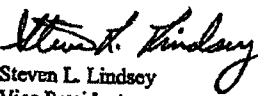
**VIII. Independent Third-Party Verification of AGLR's Data is Necessary Because AGLR Does Not Faithfully Report In Its SEC Forms Accurate Descriptions Of Events And Data Adverse To Its Interests**

On August 25, 2004 CGC's and AGLR's capital structure witness, Dr. Roger Morin, linked his concern with capital structure to his volunteered assessment of the Authority's regulatory reputation with the investment community:

*"I'll talk a little bit about the risk environment that CGC confronts, the capital structure, and brief rebuttal comments ..What you do, what you decide in the room once this case is over has a major, major impact on the return requirements of investors It's what we call regulatory risk. And, of course, this jurisdiction has a good reputation. It's supportive. It's a good regulatory climate. So, you know, really you don't have a problem here " [Transcript 040825, Vol 4, page 12 lines 1-3 and page 14 line 20 to page 15 line 2]*

On November 4, 2004 CGC filed a petition asking the Authority to reconsider its Order of October 20, 2004. In a letter accompanying the petition, CGC's Vice-President expressed disbelief about the Order, suggested to the Authority that it did not intend the result expressed in the Order, and advised the

1 Authority to "give careful consideration" to  
2 CGC's petition.  
3

AGL Resources Atlanta Gas Light Chattanooga Gas Virginia Natural Gas AGL Networks Sequent Energy Management	RECEIVED 800 427 8453 phone www.chattanoogagas.com 2004 NOV -4 PM 1:43 T.R.A. DOCKET ROOM	2207 Glen Mills Drive Chattanooga, TN 37421
November 4, 2004		
Chairman Pat Miller Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, TN 37243-0505		
Dear Chairman Pat Miller:		
Today, Chattanooga Gas Company ("CGC") is filing a Motion for Reconsideration with the TRA regarding the recent Order (the "Order") issued for Docket No. 04-00034 (Petition of Chattanooga Gas Company for Approval of Adjustments of its rates and charges and revised tariff). I would like to take this opportunity to explain our concerns regarding the decision		
Finally, CGC respectfully requests the TRA give careful consideration to this motion. The adopted Order resulted in one of the lowest rates of return in the country and CGC does not believe that the Authority intended such a result. The Company is hopeful that the errors and inconsistencies identified in the Petition can be addressed appropriately during reconsideration.		
Sincerely,  Steven L. Lindsey Vice President Chattanooga Gas		
c: Director Sara Kyle Director Deborah Taylor Tate Parties of Record		

4  
5  
6  
7 By December 3, 2004, AGLR and CGC downgraded  
8 the Authority's regulatory status from  
9 "supportive" to "unreasonable," according to  
10 the affidavit of Mr. Michael Morley, who said  
11 in paragraph 13 of his affidavit:

12  
13 "In this docket, the use of the capital  
14 structure established by the TRA results in an  
15 ROR that provides for an unreasonably low  
16 revenue requirement. The unreasonably low

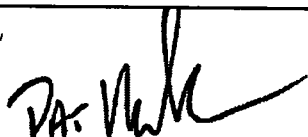



1 revenue requirement is due primarily to an  
2 unreasonably low equity component in the  
3 capital structure."  
4


5 As a witness in the case, Mr. Morley surely was  
6 and is in the position of knowing the amount  
7 which the Authority ordered as a revenue  
8 increase for CGC. Shown below are three items:  
9 the cover page of the Authority's Order in this  
10 docket, ordering clause 19 establishing a  
11 revenue increase of \$642,777, and the Order's  
12 signature page.

BEFORE THE TENNESSEE REGULATORY AUTHORITY	
NASHVILLE, TENNESSEE	
October 20, 2004	
IN RE:	
PETITION OF CHATTANOOGA GAS COMPANY	DOCKET NO.
FOR APPROVAL OF ADJUSTMENT OF ITS	04-00034
RATES AND CHARGES AND REVISED TARIFF	

19. Chattanooga Gas Company is directed to file tariffs with the Authority that are designed to produce an increase of \$642,777 in revenue for service rendered and any tariffs necessary to be consistent with this Order;

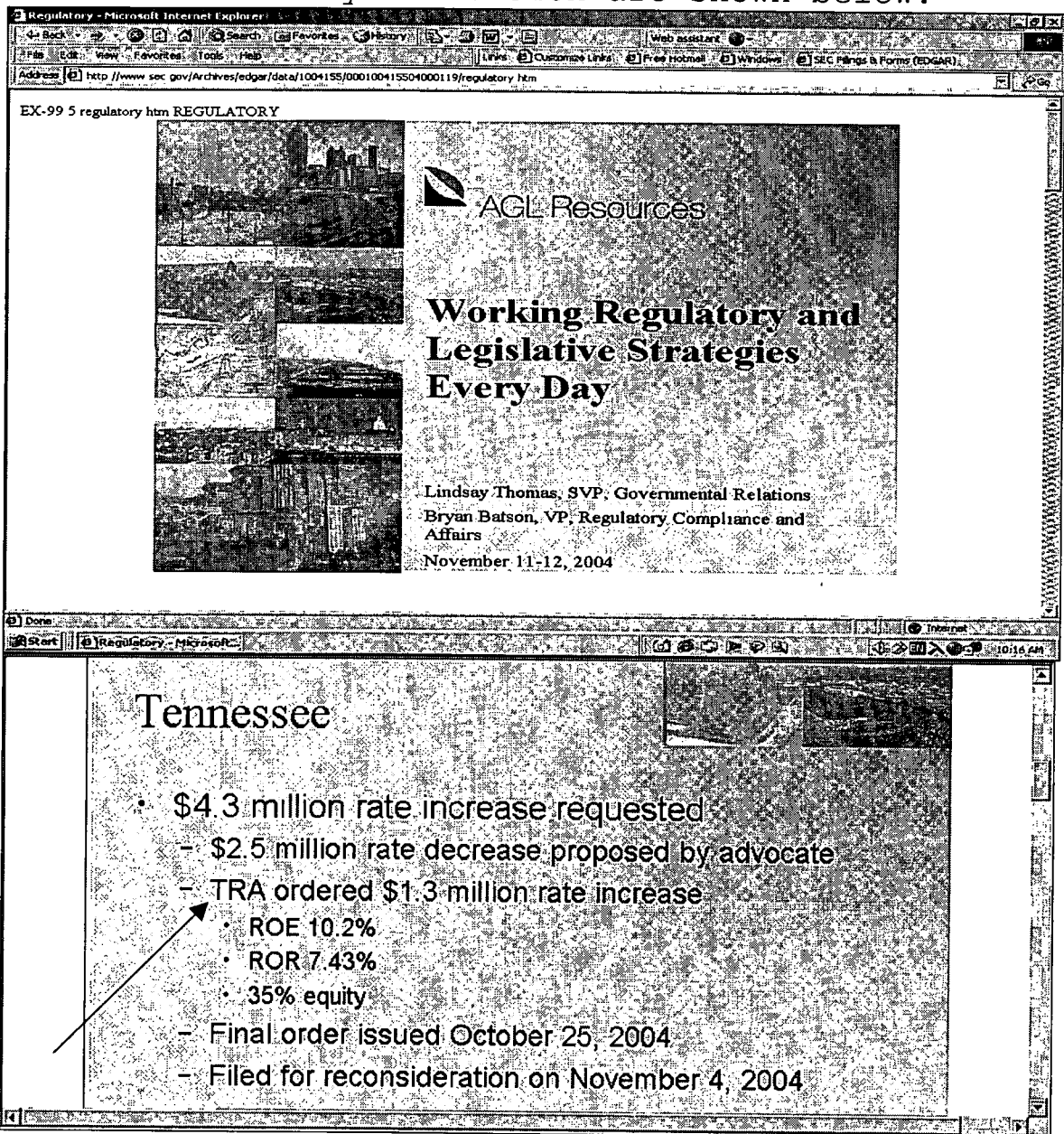
  
Pat Miller, Chairman

  
Deborah Taylor Tate, Director

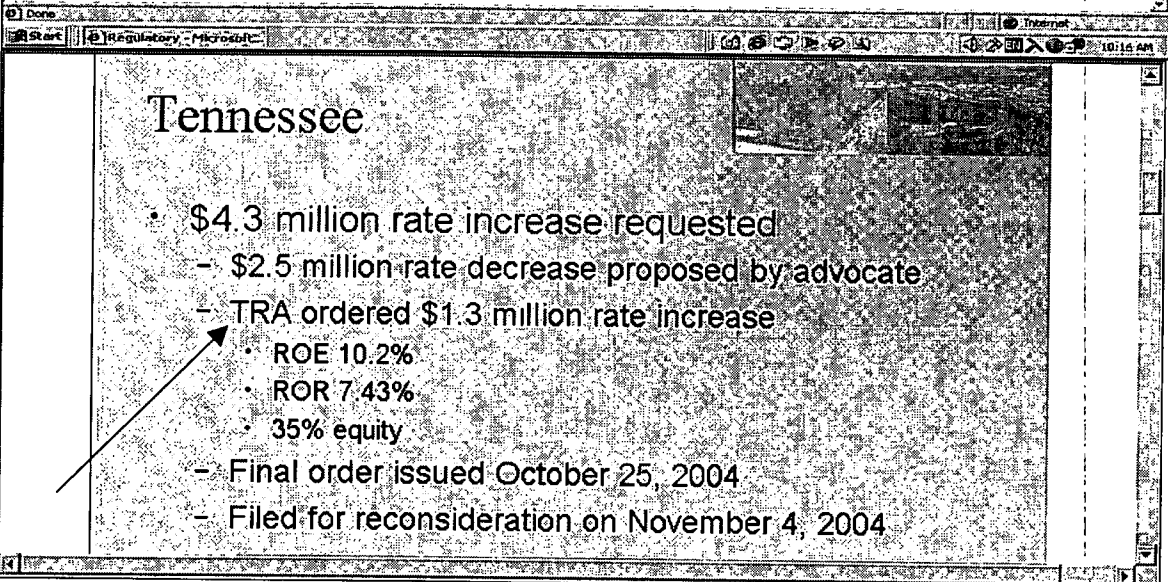
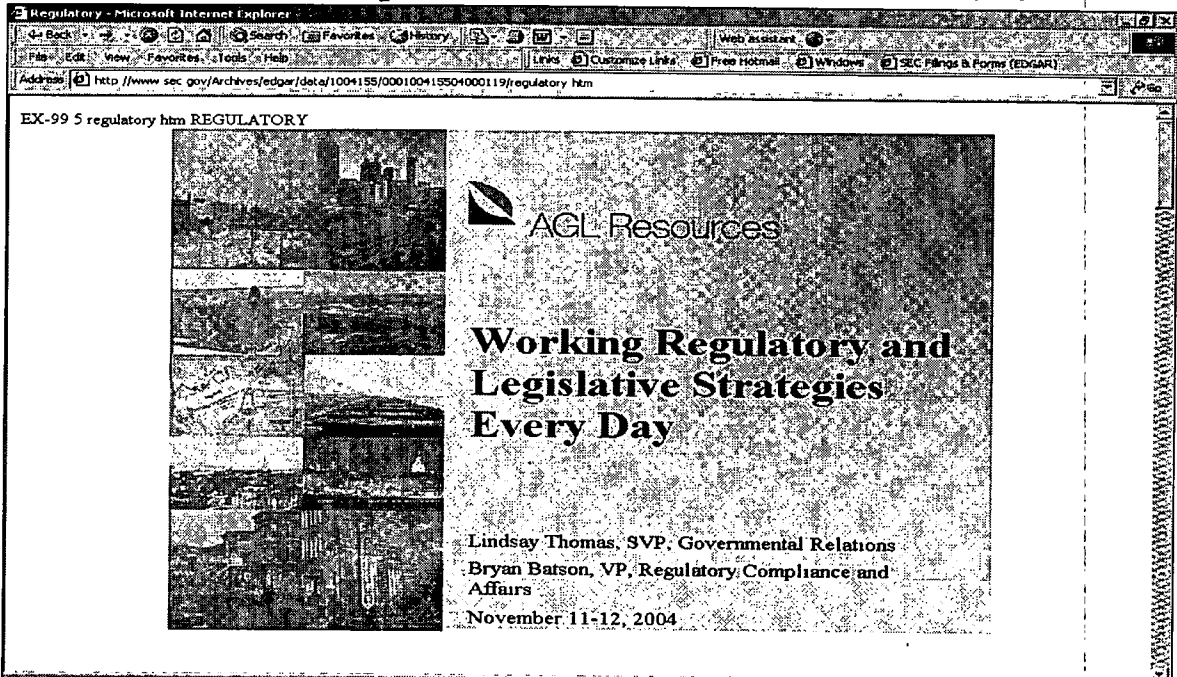
  
Sara Kyle, Director

Unless the Authority has already received the information that I am conveying on the next few pages, the Authority may be surprised to know that on November 12, 2004 AGLR informed the entire investment community that the Authority had ordered CGC a revenue increase of \$1.3 million for CGC, an amount more than double the increase of \$642,777. Thus, as far as the investment community knows, the Authority has ordered a revenue increase of \$1.3 million, and

1 AGLR is ultimately seeking more than \$1.3  
2 million revenue increase from the Authority.  
3 Copies of the SEC documents which misrepresent  
4 the Authority's decision are shown below.



1 AGLR is ultimately seeking more than \$1.3  
2 million revenue increase from the Authority.  
3 Copies of the SEC documents which misrepresent  
4 the Authority's decision are shown below.



## Important Note to Investors

Statements in this presentation that are not historical facts, including statements regarding our estimates, beliefs, expectations, intentions, strategies or projections, may be "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. All forward-looking statements involve a number of risks and uncertainties that could cause actual results to differ materially from the estimates, beliefs, expectations, intentions, strategies and projections reflected in or suggested by the forward-looking statements. Information concerning risks and uncertainties that could cause differences between actual results and forward-looking statements is contained in our filings with the Securities and Exchange Commission, including our Form 10-Q for the quarter ended September 30, 2004, filed with the commission on October 27, 2004, and our Form 8-K filed with the commission on October 27, 2004. Caution should be taken for you not to place undue reliance on our forward-looking statements, which represent our views only as of the date of this presentation, and which we have no current intention to update.

The document shown above is the "forward looking statements" warning AGLR gave in its November 12, 2004 presentation to investors. If CGC's petition for reconsideration resulted in a revenue increase similar to those increases which AGLR has presented in its SEC 8-K filing, then AGLR's "forward looking statement" would be a surprisingly accurate prediction of its regulatory future. But AGLR's representation of a \$1.3 million increase is not "forward looking" because it occurred after the date of the Authority's Order. AGLR's public misrepresentation of the Authority's Order, in not one but two different filings with the SEC, in combination with: a) Mr. Lindsey's comments that "CGC does not believe the Authority intended... the result;" b) his urging of "careful consideration;" c) Mr. Morley's characterization of the Authority as "unreasonable;" and d) Dr. Morin's public ruminations on the Authority's "reputation"

1 appear as a public badgering of a Tennessee  
2 state agency for a decision that indeed has a  
3 reasonable basis. CAPD asks that the Authority  
4 not let itself be pressured into granting a  
5 further revenue increase beyond \$642,777, a  
6 revenue increase which AGLR again failed to  
7 disclose in a recent and prominent SEC filing.  
8

9 Despite the Authority's clearly worded Order  
10 and great specificity in identifying a revenue  
11 increase of \$642,777, AGLR continued to  
12 misrepresent the Authority's Order, as shown  
13 below from AGLR's recent 10-K filing of  
14 February 15, 2005, page 28.  
15

*Chattanooga Gas is a natural gas local distribution utility with distribution systems and related facilities in the Chattanooga and Cleveland areas of Tennessee. Chattanooga Gas has approximately 1.2 Bcf of LNG storage capacity in its LNG plant. Included in the base rates charged by Chattanooga Gas is a weather normalization clause that allows for revenue to be recognized based on a factor derived from average temperatures over a 30-year period, which offsets the impact of unusually cold or warm weather on its operating income. Chattanooga Gas is regulated by the Tennessee Regulatory Authority (Tennessee Authority).*

*Base Rate Increase In January 2004, Chattanooga Gas filed a rate plan request with the Tennessee Authority for a total rate increase of approximately \$5 million annually. The rate plan was filed to cover Chattanooga Gas' rising cost of providing natural gas to its customers. In May 2004, the Tennessee Authority suspended the increase until July 28, 2004 and subsequently deferred the decision to August 30, 2004. After its initial filing, Chattanooga Gas reduced its rate plan increase to approximately \$4 million, primarily as a result of the February 2004 Tennessee Authority ruling discussed in "Purchased Gas Adjustment" below. Chattanooga Gas received a written order from the Tennessee Authority on October 20, 2004 that authorized new rates based on a 7.43% return on rate base for an increase in revenues of approximately \$1 million annually. In November 2004, the Tennessee Authority granted Chattanooga Gas' motion for reconsideration of the rate increase and in December 2004 heard oral arguments on the issues of the appropriate capital structure and the return on equity to be used in setting Chattanooga Gas' rates. The Tennessee Authority has not yet issued its ruling after reconsideration.*

16 In fact CGC did not receive "a written  
17 order... for an increase of revenues of  
18 approximately \$1 million." Even though the  
19 10-K form contains many specific numbers,  
20 an investor depending on the 10-K for  
21 accuracy may think the phrase  
22 "approximately \$1 million" is not much  
23 different from a "\$1.3 million increase."  
24 But an investor relying on the 8-K and 10-  
25  
26

1 K forms might be puzzled to read the story  
2 below, which appeared in the August 31,  
3 2004 issue of the Chattanooga Times Free  
4 Press:  
5

Natural gas rate hike trimmed  
2% increase 'disappoints' utility  
By Dave Flessner Business Editor

Chattanooga Gas Co. will boost what it charges to distribute natural gas in Hamilton and Bradley counties by 2 percent, effective Oct. 1. The Tennessee Regulatory Authority voted Monday to grant the first increase on the regulated portion of local gas bills in nine years. But the increase is only a fraction of the 15.3 percent initially sought by the gas utility.

"This is a complicated business with many unknowns," TRA Commissioner Debi Tate said. "Our charge is to set rates that are just and reasonable to make sure those we regulate don't undercollect or overcollect."

TRA Chairman Pat Miller proposed the 2 percent rate increase on Monday following three days of hearings last week. Mr. Miller said the company had justified only \$642,777 more in additional revenues, well below the initial \$4.5 million requested in January by Chattanooga Gas.

E-mail Dave Flessner at [dflessner@timesfreepress.com](mailto:dflessner@timesfreepress.com)

This story was published Tuesday, August 31, 2004

6  
7  
8  
9 Investors wanting accurate information on  
10 regulatory decisions in Tennessee will have to  
11 look to Chattanooga Times Free Press instead of  
12 AGLR's SEC filings. Clearly AGLR wants to limit  
13 the regulatory information which reaches  
14 investors.

15  
16 In contrast, any consumer who had read the  
17 Chattanooga Times Free Press and then stumbled  
18 onto AGLR's SEC filings may wonder if the  
19 phrases "approximately \$1 million" and "TRA  
20 ordered a \$1.3 million rate increase" are  
21 predictions of a higher price increase than  
22 what was reported in the Chattanooga Times Free  
23 Press. To my knowledge CGC and AGLR have not  
24 informed their investors, the SEC, or the  
25 Authority of the misleading statements  
26 regarding the Authority's Order. Therefore, I

1 place little credibility in AGLR's  
2 certifications of accuracy, whether they are in  
3 a 10-Q or a 10-K, such as management's  
4 certification in AGLR's recent 10-K, as shown  
5 below.  
6

EX-31 14 exhibit31.htm RULE 13A-14(A)/15D-14(A) CERTIFICATIONS

Exhibit 31 - Rule 13a-14(a)/15d-14(a) Certifications

- 7
- 1 I have reviewed this Annual Report of AGL Resources Inc ,
  - 2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report,
- 8  
9

10 In my opinion CGC's rates to businesses and  
11 other consumers in Chattanooga should be based  
12 only on AGLR's data as verified by an  
13 independent third party.  
14

15 **IX. AGLR's SEC Filings Treat The**  
16 **Utility-Subsidiary Capital**  
17 **Structures As Confidential.**  
18

19 CAPD's view and the Authority's view into  
20 AGLR's capital structure and the capital  
21 structures of its utility subsidiaries is drawn  
22 from the public record, including documents  
23 filed at the SEC. Those documents greatly  
24 alleviate the discovery CAPD would require in a  
25 rate case involving AGLR. However, on March 1,  
26 2005, one day after the Authority's motion  
27 regarding the capital structure issue in the  
28 instant docket, AGLR filed an SEC form 35-CERT,



1           which the SEC required of AGLR as follow-up  
2           information to the acquisition of NUI in  
3           November 2004. AGLR states in the second  
4           paragraph of its 35-CERT filing: "Each  
5           disclosure requirement set forth in the [SEC's]  
6           Order is repeated below, followed by AGLR's  
7           response." In its order the SEC had Item 11,  
8           which the agency required of AGLR: provide "a  
9           table showing, as of the end of the quarter,  
10          the dollar and percentage components of the  
11          capital structure of AGL Resources on a  
12          consolidated basis, and each of AGLC, CGC, VNG,  
13          NUI Utilities and VGDC." AGLR responded:  
14          "Exhibit 5 - Capital Structure Table is  
15          submitted pursuant to a request for  
16          confidential treatment." Selected portions of  
17          AGLR's 35-Cert filing are shown below.

35-CERT 1 cert.htm 35-CERTIFICATION

File No 70-10243

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D C 20549

CERTIFICATE OF NOTIFICATION  
(RULE 24)

BY

AGL Resources Inc

This certification is filed in compliance with the terms and conditions of Rule 24 under the Public Utility Holding Company Act of 1935 (the "Act") and Commission order dated April 1, 2004, Holding Company Act Release No 27828 (SEC File No 70-10175), as amended by Commission order dated November 24, 2004, Holding Company Act Release No 27919 (SEC File No 70-10243) authorizing the acquisition of the issued and outstanding common stock of NUI Corporation ("NUI") and certain other transactions (collectively, the "Order"). Under the Order, AGL Resources Inc ("AGLR") is required to file a certificate of notification on a quarterly basis that provides the information described below.

Except with respect to NUI and its subsidiaries which were acquired by AGLR on November 30, 2004, this certificate of notification reports on the three month period ended December 31, 2004. With respect to NUI and its subsidiaries, this report provides information for the period December 1, 2004 - December 31, 2004. Each disclosure requirement set forth in the Order is repeated below, followed by AGLR's response.

- 11 A table showing, as of the end of the quarter, the dollar and percentage components of the capital structure of AGL Resources on a consolidated basis, and each of AGLC, CGC, VNG, NUI Utilities and VGDC,

Exhibit 5 - Capital Structure Table - is submitted pursuant to a request for confidential treatment.

SIGNATURE

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned company has duly caused this certificate of notification (SEC File No 70-10175 and SEC File 70-10243) to be signed on its behalf by the undersigned thereunto duly authorized.

AGL Resources, Inc

By /s/ Bryan E. Seas  
Bryan E Seas  
Vice President and Controller

Date March 1, 2005

According to rule 104 of the SEC any filer requesting confidential treatment receives that treatment. I have discovered that AGLR has always filed its utility-subsidiary capital-structure on a confidential basis. It is not clear why AGLR's subsidiaries' capital structures would need to be confidential, especially

1           in light of the Authority's careful  
2           efforts to reconsider the capital  
3           structure issue in this docket. Even more  
4           puzzling, why does AGLR continue to make  
5           the subsidiaries' capital structures  
6           confidential after saying in its 10-K  
7           report of February 15, 2005 that the  
8           Authority "in December 2004 heard oral  
9           arguments on the issues of the appropriate  
10          capital structure?"  
11

12          In view of AGLR's practice of filing its  
13          subsidiaries' historical capital structure as  
14          confidential, Mr. Morley's testimony of March  
15          14, 2005 is remarkable: AGLR has no interest in  
16          keeping its projected capital structures  
17          confidential but every interest in keeping  
18          historical capital structures confidential.  
19

20          For example, in his testimony at page 5, lines  
21          1-7, he explains that AGLR is filing certain  
22          information as confidential because it might be  
23          "misinterpreted by stockholders and investors."  
24          But Mr. Morley thinks such investors and  
25          stockholders are intelligent enough to not  
26          misinterpret "forecasted capital structures."  
27          Excerpts from his testimony are shown below.

9     **Q.   Why is Exhibit MJM Support – 3 being filed as confidential under the**  
10           **protective order?**

11     A   Exhibit MJM Support – 3 is being filed as confidential due to the detailed  
12           forecasted information included in the exhibits. AGLR is a company whose  
13           common stock and debt are publicly-traded. As such, AGLR files various reports  
14           about its business and results of operations with the Securities and Exchange  
15           Commission (SEC) pursuant to the Securities Exchange Act of 1934, as amended.  
16           The information provided pursuant to this request is not provided and is not  
17           required in these reports and might be misinterpreted by stockholders and  
18           investors. AGLR feels it is necessary to file this information confidentially in  
19           order to abide by certain restrictions posed by the SEC regarding selective  
20           disclosure of information about its business.

21     **Q.   Why were the forecasted capital structures included in Exhibit No. Recon-2**  
22           **not filed as confidential?**

1     A.   The forecasted capital structures included in Exhibit No. Recon-2 were not filed  
2           as confidential because they simply provided the net effect, or summary, of all the  
3           detailed forecasted information included in Exhibit MJM Support – 3. As can be  
4           seen in Exhibit MJM Support – 3, there are a number of assumptions that go into  
5           the forecasted capital structures. As discussed previously, providing these  
6           assumptions at a detail level could be misinterpreted by stockholders and  
7           investors, but the capital structures themselves most likely would not

2  
3  
4       Thus the company that has described the  
5       Authority's capital structure as an  
6       "unreasonable" basis to set its subsidiary's  
7       rates is willing to provide a projected capital  
8       structure for the holding company while

1 simultaneously preventing public view of the  
2 subsidiary's capital structure.  
3  
4

## 5 **X. Conclusion**

6  
7  
8 In conclusion my opinion is that "Exhibit No.  
9 Recon-2" is a woefully inadequate basis to  
10 establish just and reasonable utility rates for  
11 Tennessee's consumers served by CGC, whose  
12 petition has focused solely on changes in  
13 AGLR's consolidated capital structure to the  
14 exclusion of all other concerns. In my opinion  
15 the petition's capital structure is not  
16 credible for all the reasons that I have  
17 already noted:  
18

19 The data is not verified by an independent  
20 third-party;  
21

22 AGLR's certifications of accuracy are  
23 insufficient to establish verification;  
24

25 AGLR's certifications are insufficient because  
26 AGLR does not faithfully report in its SEC  
27 forms accurate descriptions of events and data  
28 adverse to its interests;  
29

30 Their witness is not qualified to testify on  
31 capital structure.  
32  
33

1           In my opinion AGLR's and CGC's petition for  
2           reconsideration is fatally flawed and lacks any  
3           financial basis for any further increase beyond  
4           the \$642,777 already ordered by the Authority.  
5

6    **Q\_11.           Does this conclude your testimony at this time?**

7  
8    **A\_11.           Yes. This concludes my testimony at this time.**  
9

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Testimony of ~~Dr.~~ Steve Brown re Recon-2 has been served via first-class U.S. Mail, postage prepaid, this 30<sup>th</sup> day of March, 2005, upon.

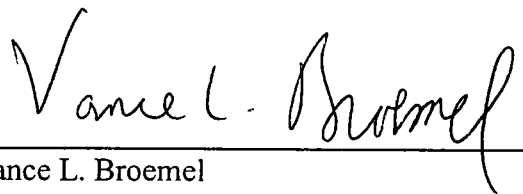
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